

## PHILADELPHIA POLICE DEPARTMENT DIRECTIVE 12.8

**Issued Date: 09-04-15** Effective Date: 09-04-15 **Updated Date: 11-02-17** 

# SUBJECT: VEHICLE OR PEDESTRIAN INVESTIGATIONS

**PLEAC (2.4.1)** 

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### SUBJECT: VEHICLE OR PEDESTRIAN INVESTIGATIONS **PLEAC (2.4.1)**

#### 1. **POLICY**

- A. A police officer will stop any vehicle where the driver or occupant(s) are observed violating the law, or where the officer reasonably believes the vehicle, driver, or occupant(s) were violating the law. When appropriate, the officer may issue Traffic Citations (TC), investigate occupant(s), and/or make arrests. In some situations, a verbal warning may also be an appropriate alternative to a traffic citation. (PLEAC 2.4.1)
  - 1. It is preferred that an officer making a stop for a traffic violation be in uniform. Only police officers in uniform will issue TCs.
  - 2. An officer may issue a TC to the violator, at the scene, based upon information that the offender has committed a traffic summary violation. The information may be obtained from:
    - a. A personal observation of the commission of the offense.
    - b. Another police officer.
    - c. A witness.
    - d. Investigation.
    - e. Speed-timing equipment.
- B. Police officers will aid motorists when circumstances indicate that an operator/vehicle is in need of police assistance.
- C. Officers are required to complete a Vehicle or Pedestrian Investigation Report (75-48A) on all vehicle stops and will record all pertinent vehicle and driver information. If any passengers in the vehicle are investigated, during the stop, their information will be recorded on the 75-48A.
  - **NOTE:** Passengers in a vehicle during a stop are recorded on the same 75-48A as the driver, however, separate DC#s are generated for each passenger investigated and recorded on the 75-48A.
  - 1. According to the United States Supreme Court, the basis for the vehicle stop provides the reasonable suspicion necessary to lawfully investigate/detain the passenger. This is true, even if the officers have no reason to suspect criminal activity by the passengers.

- 2. While a traffic stop allows passengers to be detained during the investigation, it does not automatically authorize an officer to frisk the driver or passengers. Officers must have additional reasonable suspicion to believe the driver or a passenger has a weapon that could harm the officer. The additional reasonable suspicion must be articulated on the 75-48A every time a frisk is conducted.
- D. Since EVERY vehicle investigation involves potential danger, all necessary safety precautions must be taken. When an officer stops a vehicle that they believe has been involved in the commission of a felony, the officers will employ the techniques that are consistent with those taught by the Police Academy for a "felony car stop."

**NOTE**: Officers and supervisors are reminded that due to the nature of felony car stops officer safety and situational control is paramount.

#### 2. ENFORCEMENT PROCEDURE

- A. Personnel will make every effort to direct the operator to a suitable stopping point where normal traffic flow will not be impeded. Private driveways, gas stations (when open), or other areas providing access to business establishments will not be used for traffic stops when alternate locations are available. When private property is used for a traffic stop, all possible care will be taken to avoid inconvenience to property owners or patrons. Position the police vehicle, when practical, to the rear and left of the vehicle being stopped.
- B. After stopping but before approaching any vehicle, police personnel will:
  - 1. Supply Police Radio with the following information:
    - a. Location
    - b. Make, model (new or late), and color of vehicle
    - c. License plate number and state
    - d. Number and description of occupants
    - e. Reason for stopping the vehicle
    - f. Whether or not the officer is solo.
  - 2. If solo, await the arrival of back-up whenever possible.
- C. Approach all vehicles with caution, taking a vantage point that will afford the best view and offer the most protection. Attempt to keep the hands of the occupant(s) in view at all times. Occupants may be ordered out of vehicles when necessary for the officer's safety.

- 1. If the vehicle has a rear trunk, ensure it is closed securely before approaching the driver of the vehicle by pushing down on it as you pass by.
- 2. Whenever a vehicle is stopped, and windows of the vehicle are tinted in such a manner that the officer does not have a clear view of the inside, use the following precautionary measures:
  - a. Use police vehicle public address system to instruct occupant(s) to lower all side windows.
  - b. At night, have occupant(s) turn on inside lights. Use spotlight and flashlight to illuminate darkened areas of the vehicle's interior.
- D. Request the operator's driver's license, vehicle registration, and insurance identification card. NEVER accept wallets or card cases. It is highly recommended that an officer never reach into an occupied vehicle in an attempt to shut off the engine or to recover evidence, since this has been known to result in serious injury to officers. Only in exigent circumstances should this tactic be utilized (e. g., the driver is unconscious and the motor is still running).
- E. Compare the Vehicle Identification Number (VIN) and license plate with the information on the registration card. Check the inspection and emissions stickers for dates.
- F. If the operator is unable to produce a valid driver's license, the officer will:
  - 1. Ask the operator to produce an old/expired driver's license or other written identification to verify their identity.
  - 2. Issue a TC for any violation of the appropriate section of the Pennsylvania Vehicle Code (Section 1501, 1511 or 1543) based on the result of the PCIC inquiry.
    - **NOTE**: If the operator is unable to produce a valid operator's license or proof of current vehicle registration, the officer will refer to Appendix "A' of this directive and take the appropriate actions under the "Live Stop" initiative.
- G. Issue pertinent TC(s) in accordance with Directive 3.2, "Vehicle Law of Pennsylvania (Vehicle Code) Violations" or give a verbal warning. Determination of whether to issue a traffic citation or give a verbal warning will be based on the discretionary judgment of the officer with regard to such circumstances as the nature of the offense, location of the incident, time of day, etc. (PLEAC 2.4.1)
  - 1. Record the TC number(s) or indication of verbal warning on the 75-48A and Patrol Activity Log (75-158).

- 2. Record the make, model and license plate of vehicle on the 75-158.
- H. When stopping traffic violators in residential areas, the light bar and red lights(s) may be turned off if there is no traffic hazard or need to signal the police vehicle's location to other units. (This reduces curiosity by bystanders in tense neighborhoods).
- I. Unmarked police vehicles may be used for traffic enforcement when operated by uniformed police personnel and only if the police vehicle is equipped with audible and visual signals for recognition by offending motorists.
- J. Police officers in plainclothes and detectives will not routinely make traffic stops unless the actions of the violator are a clear danger to pedestrian or vehicular traffic and no marked unit is readily available. Only uniformed officers will issue TCs.

#### 3. SEARCH AND SEIZURE ISSUES

#### A. Lawful Frisk of Occupant(s):

- 1. A police officer who makes a lawful stop based upon either reasonable suspicion or probable cause may frisk the driver and occupants and sweep the immediate area for weapons but only if the officer has additional reason to believe the driver or the individual occupant is armed. The basis used to stop a vehicle does not automatically give the officer the right to frisk the driver and all the occupants. Officers must articulate on the Vehicle or Pedestrian Investigation Report (75-48A) reasons why the officer believed the individual was a personal threat.
- B. Lawful Search of Occupant(s) and Vehicle:
  - 1. A police officer who has lawfully stopped a vehicle and has probable cause to believe that evidence/contraband is concealed somewhere within the vehicle, may conduct a probing search of the vehicle without a warrant. This exemption to the general warrant requirement is intended to apply in those situations where an officer suddenly and unexpectedly develops probable cause during a vehicle investigation. This exemption does not diminish the necessity of probable cause. Without a warrant, it is even more critical for officers to document all the facts and circumstances that led the officer to reasonably believe the vehicle contained contraband. Police Officers/Investigators who have developed probable cause on a specific vehicle in advance should not rely on this ruling to avoid securing a warrant.
    - a. Probable cause must be based on objective facts that could justify the issuance of a warrant by a judge and not merely on the subjective good faith of the police officer.

#### 4. ARREST PROCEDURE

- A. A PCIC check will be conducted on any operator, vehicle, or occupant observed in violation of the law or when the officer reasonably believes the any operator, driver, or occupant(s) were violating the law.
- B. Arrest suspects, conduct a search incident to the arrest, and seize all evidence/contraband when the arrest is made pursuant to an outstanding arrest warrant (includes NCIC/PCIC wants) or when a warrantless arrest is permitted by the Pennsylvania Rules of Criminal Procedure, including:
  - 1. An arrest without a warrant when the offense is a felony or a misdemeanor committed in the presence of the police officer making the arrest; or
  - 2. An arrest without a warrant upon probable cause when the offense is a felony; or
  - 3. An arrest without a warrant upon probable cause when the offense is a misdemeanor or summary not committed in the presence of the police officer making the arrest, when such arrest without a warrant is specifically authorized by statute (i. e., theft, drunk driving).
- C. In those instances in which a Non-Traffic Summary Citation is issued, the citation <u>WILL BE</u> issued on the street in the same manner that a TVR is issued. PA Law provides that a law enforcement officer <u>MAY NOT</u> take an individual into custody and transport that person to a police facility for the issuance of a summary citation except when exceptional circumstances exist. Exceptional circumstances that would necessitate taking a person into custody and transported to a police facility for the purpose of issuing a summary citation include:
  - 1. Cases involving enhanced penalties (i.e. retail theft and other upgradeable offenses).
  - 2. Defendant fails to produce identification.
  - 3. When there is violence or imminent threat of violence.
  - 4. When there is likelihood that the defendant will flee.

NOTE: In RETAIL THEFT CASES, when a summary citation is issued, the person arrested for theft will be transported to the appropriate Detective Division for identification and issuance of the Non-Traffic Summary Citation.

D. If the offense is a misdemeanor for which a warrantless arrest is not specifically authorized by statute and the officer did not witness the offense, an arrest or transportation of the offender is not permitted. Rather, the officers can only temporarily detain the offender to complete the investigation. Officers will then submit all information relating to the incident to the pertinent investigative unit. The investigative unit can make the arrest once an arrest warrant is obtained.

**NOTE**: If the offender's identity is at issue, officers may take reasonable steps necessary to identify the offender before releasing them. If any questions remain; officers should contact a supervisor for guidance.

#### \*1 E. Traffic Violations and Criminal Arrests:

1. In all situations where a vehicle is stopped for Motor Vehicle Code violations and the operator is ultimately arrested for other criminal offenses that are discovered during the vehicle investigation, the officers shall issue all relevant TVR(s) for the underlying MVC violation(s). The TVR(s) will be issued to the operator and submitted to the Municipal Court-Traffic Division.

#### 5. ASSISTANCE TO MOTORISTS

- A. Whenever a police officer observes a vehicle in the following or other unusual circumstances, an investigation will be conducted for the purpose of rendering assistance:
  - 1. An individual slumped over the steering wheel or showing other signs of distress, etc.
  - 2. A vehicle stopped on the shoulder of an expressway (e. g., I-95, I-76);
  - 3. A vehicle stopped in such a position (e. g., driving lane) or in such an area (e. g., deserted road or parking lot) that would indicate that the operator may need assistance;
  - 4. A vehicle stopped with lights on in the daytime or lights on and apparently unoccupied at night;
  - 5. A vehicle stopped with a white cloth or other object fastened to the antenna or the door, etc.

#### 6. REPORTING

- A. A 75-48A will be prepared and submitted on all occupied vehicle investigations (Code 2702). If there is legal grounds to investigate and detain passengers, the passenger information will be entered in the spaces provided on the Vehicle or Pedestrian Investigation Report (75-48A). A Complaint or Incident Report (75-48) is required for unoccupied vehicle investigations.
- B. Once the officer informs Police Radio that they have a vehicle or pedestrian investigation, Police Radio will issue District Control (DC) numbers for that activity.
- C. When the vehicle investigation does not result in an arrest or is not a follow-up investigation of a previously reported crime or incident, ALL sections of the 75-48A that pertain to a vehicle investigation are to be completely filled out.
  - 1. If an arrest results from this investigation, a 75-48 will also be prepared detailing the specifics of the arrest. Make sure to include the following on both the 75-48A and the 75-48:
    - a. Operator's description, date of birth, driver's license number, vehicle tag number, year, make, model, color, and VIN.
    - b. If the operator is not the owner, record the name and address of the vehicles registered owner.
    - c. Indicate why the vehicle was stopped and the action taken. Include the TVR number(s), if issued.
    - **NOTE**: When a 75-48 and a75-48A must both be prepared, the officer will inform Police Radio that two (2) sets of DC numbers will be required. One set will be assigned to the 75-48 and one set will be assigned to the 75-48A.
- D. When a pedestrian investigation results from a ped stop or as the result of a car stop, all sections of the 75-48A pertaining to "Pedestrian" or "Passenger" are to be filled out in their entirety for each person investigated.
- E. Distribution of the 75-48A:
  - 1. The original 75-48A remains in the district of occurrence. There are no copies generated.
- F. When the vehicle investigation results in an arrest or is a follow-up investigation of a previously reported crime or incident, the 75-48A will be completed, coded and distributed according to the nature of the incident.

#### 7. PEDESTRIAN INVESTIGATION PROCEDURES

- A. A police officer will stop any pedestrian observed violating the law, or where the officer reasonably believes that the pedestrian was violating the law. When appropriate, the officer may investigate the pedestrians, issue non-traffic summary citations, Code Violation Notices (CVNs) or make arrests.
- B. Anonymous Reports of Crime/Flash Information
  - 1. According to the Supreme Court, anonymous reports of crimes broadcasted by Police Radio, including illegal gun assignments DO NOT, by themselves, amount to reasonable suspicion to detain and frisk an individual.
  - 2. An individual merely matching the description of an anonymous report of a crime/9-1-1 call is NOT a legal basis to stop and frisk an individual. Officers must still observe a specific and articulable facts that would lead a reasonable officer to believe the individual is involved in or about to commit a crime.
    - a. This does not mean an officer may never initiate a Terry stop as a result of an anonymous 9-1-1 call. A Terry stop may be initiated upon the anonymous call provided the tip can be sufficiently corroborated by independent police work and observations that would give rise to a reasonable belief that the tip was correct (i.e., independent reasonable suspicion). Upon arrival on location, officers will use their knowledge and experience in an effort to establish reasonable suspicion to stop an individual.
    - b. When responding to anonymous reports of crime/9-1-1 flash information, if officers are presented with facts and circumstances which would support a reasonable belief that a crime or offenses has been or is being committed and that the person stopped is the offender (i.e., reasonable suspicion) the stop is justified. The facts and circumstances supporting the reasonable suspicion must be articulated in the space provided.
    - c. When responding to anonymous reports of crime/9-1-1 flash information and reasonable suspicion CAN NOT be established, no detention will take place and no 75-48A will be completed. Officers may engage individuals in a mere encounter, but the individuals may not be detained or frisked. A 75-48A shall not be used to document mere encounters.
- C. The courts have outlined that there are three levels of police/citizen interactions:

- The Mere Encounter: This is a consensual interaction where the officer may
  ask the citizen questions and generally engage the citizen in conversation. In this
  interaction, the police officer may ask for identification from the citizen but the
  citizen is under no obligation to engage the officer or provide identification.
  Refusal to comply with requests and conversations DOES NOT provide the
  officer with any additional suspicion.
- 2. The Investigatory Detention: This is an interaction of a non-consensual nature where the officer has developed reasonable suspicion that criminal activity is occurring and the subject of the detention is involved in criminal activity. During this type of interaction, the officer must be able to point to specific articulable facts which lead to reasonable suspicion. In this interaction, the officer may demand identification from the citizen and the citizen must comply with the orders of the officer.

**NOTE:** If an officer possesses reasonable suspicion of criminal activity and there are specific factors which lead the officer to believe the subject is armed and poses a threat, the officer is permitted to conduct a Terry Frisk of the person to detect weapons that could be used to harm the officer.

3. The Custodial Detention or Arrest: This is the most intrusive level of police/citizen interaction. Legally, the officer must develop probable cause that the subject is engaged in or has engaged in criminal activity. Once probable cause has been established the subject of the interaction is not free to leave. This situation places the subject under the actual will and control of the arresting officer.

**NOTE:** In the investigatory detention and arrest situations the courts will assess the existence of reasonable suspicion or probable cause based on the "Totality of Circumstances Test" which involves an assessment of all facts and circumstances available to the officer at the time they initiated the detention or arrest.

- D. Officers are required to complete a Vehicle or Pedestrian Report (75-48A) on all investigatory and custodial detentions. The preparing officer will enter all pertinent pedestrian information.
- E. Since every pedestrian investigation involves potential danger, all necessary safety precautions must be taken. If force is necessary, only the minimal amount of force necessary to protect life or to effect an arrest should be used by an officer. Excessive or gratuitous use of force will not be tolerated.

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#### 8. TRAFFIC VIOLATION ENFORCEMENT REGARDING BICYCLES

A. A bicycle is considered a vehicle according to Section 3501 of the Vehicle Laws of Pennsylvania (Vehicle Code). Subsequently, bicycle operators are required to observe the same traffic regulations that are mandated for operators of motor vehicles and are subject to all fines and court costs outlined in Sections 3502 and 3510 of the Vehicle Code.

**NOTE**: Police officers observing violations, which are prohibited by the Vehicle Code and a local City ordinance shall issue the violation under the Vehicle Code.

- B. Police officers shall make every reasonable effort to enforce all the traffic provisions outlined in Sections 3501 through 3513 of the Vehicle Code and Chapter 12-800 of the Philadelphia Code of General Ordinances. Police officers shall use their judgment and carefully consider all circumstances before issuing a Traffic Citation (TC).
- C. Bicycle Traffic Safety Warnings will be issued instead of a summons when deemed appropriate.
- D. In accordance with Title 75 PA CS (Vehicle Code), it is preferable that an officer conducting an investigation for a traffic violation be in uniform. Only uniformed personnel will issue traffic citations.
- E. Officers will take the same precautions during the course of a bicycle investigation as they would for a motor vehicle investigation.
- F. After stopping a bicycle, but before approaching the operator, police personnel will:
  - 1. Supply Police Radio with the following information:
    - a. Location of investigation
    - b. Color/description of bicycle
    - c. Description of operator
    - d. Whether or not the officer is solo.

**NOTE**: If solo, await the arrival of a back-up officer whenever possible.

2. Request the operator to produce some type of identification (driver's license, Social Security card, library card, student identification, etc.). Officers will be guided by Sections 6308(a) and 6311 of the Vehicle Code when there is any question as to the validity of the information being supplied to the officer by the operator.

- 3. Issue pertinent TC in accordance with Directive 3.2, "Vehicles Law of Pennsylvania (Vehicle Code) Violations".
- 4. Process an Intoxicated Chauffeur according to Directive 3.4, "Driving Under the Influence of Alcohol and/or a Controlled Substance".
- G. Police officers will have the discretion of issuing a verbal warning in lieu of a TC and will be based on the judgment of the officer after weighing the circumstances (e.g., type of offense, location of the incident, time of day). When using discretionary judgment to issue a motorist a verbal warning officers will indicate that a verbal warning was issued on their patrol activity logs and the 75-48A.
- H. Under 75 Pa. C.S. §3301 "Driving on the Right Side of the Roadway" the operator of a Pedalcycle traveling less than the normal speed of traffic shall operate in the right hand traffic lane or as close as practical to the right hand curb or edge of the roadway except when they are passing a vehicle going in the same direction or when preparing for a left turn.
  - **NOTE**: The above mentioned provisions do not apply to a cyclist operating outside of the right hand lane due to unsafe road conditions in the right lane or operating on a roadway that is only one lane in each direction.
- I. Under 75 Pa. C.S. §3364 "Minimum Speed Regulation" a cyclist may operate a pedalcycle at a reasonable speed appropriate for a pedalcycle. The cyclist must also take reasonable efforts to not impede the normal and reasonable flow of traffic.
  - **NOTE**: Title 75 does not establish specific fines for the above listed sections. Therefore, violators shall pay a fine of twenty-five dollars (\$25) upon conviction for the above listed violations. Like any other violations, court costs associated with the violation will be added to the "Total Due" box on the face of the citation.
- J. Violations Not Covered by Title 75 PA CS. (Vehicle Code):
  - 1. The following City ordinance is not covered by the Vehicle Code and therefore, police officers shall issue traffic citations using the pertinent City Ordinance:
    - §12-808 -- No person shall ride a bicycle upon a sidewalk within a business district, as such a district is defined in the Vehicle Code. No person 12 years of age or older shall ride a bicycle upon any sidewalk in any district.

"Business district" -- The territory contiguous to and including a highway when within any 600 feet along the highway where there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations or public buildings that occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

#### 9. "DEAD" PLATES NOT TO BE RE-ISSUED

A. All "dead" plates which are recovered by Philadelphia Police Department personnel will be returned to the Pennsylvania Bureau of Motor Vehicles (BMV) in compliance with the procedures outlined in this section and in compliance with the Vehicles Law of Pennsylvania (Vehicle Code), 75 §1333 and §1334.

#### B. Definitions

1. "Dead" plates--any Pennsylvania vehicle registration plate (no longer affixed to a vehicle) which is classified stolen/lost by the BMV. These plates will not be returned to the registrant since they will not be re-issued.

**NOTE**: Plates that have a good registration date but are affixed to a vehicle other than the one it is registered to are not considered "dead."

C. Re-application--the registrant of this vehicle will, within 48 hours, report the loss or theft of the plate to the police and apply to the BMV for a new plate.

#### D. Patrol Procedure

- 1. Upon recovery of a registration plate, police will:
  - a. Conduct a National Crime Information Center (NCIC)/Philadelphia Crime Information Center (PCIC) check to determine the status of the vehicle registration plate.
- 2. Upon confirmation that the registration plate is "dead," police personnel will:
  - a. Prepare a Complaint or Incident Report (75-48) if vehicle is unoccupied or a Vehicle/Pedestrian Investigation Report (75-48A) if occupied, listing the vehicle registration plate, registrant's name and address, and the original District Control (DC) number under which the plate was reported lost or stolen.
  - b. Complete the Acknowledgement of Seized/Surrendered Drivers License/ Vehicle Registration form (DL-640) to be distributed as follows:

- 1) Part I (white copy) is attached to the plate being returned
- 2) Part II (yellow copy) to be retained by the officer
- 3) Part III (green copy) given to the vehicle operator if on site.

**NOTE**: Forms are available through police warehouse, commodity number 0325-735-2 and by phone through Harrisburg at (717) XXX-XXXX.

c. Submit the "dead" plate, the completed 75-48 or 75-48A along with the Part I copy of the DL-640 to the Operations Room Supervisor in the district in which the plate was recovered.

**NOTE**: If it is determined that the "dead" vehicle registration plate must be retained for evidentiary purposes, it will be placed on a Property Receipt (75-3) in accordance with current procedures outlined in Directive 12.15 entitled, "Property Taken into Custody."

#### E. Operations Room Supervisor will ensure that:

- 1. The recovering officer has accurately and legibly completed the 75-48 or 75-48A.
- 2. The appropriate computer message is sent to cancel the status of the registration plate as lost/stolen.
- 3. The NCIC/PCIC check and the 75-48 (pink copy) or a copy of the 75-48A along with the Part I (white copy) of the DL-640 are attached to the "dead" plate and submitted to the Commanding Officer as soon as possible.

#### F. Commanding officers will ensure that:

- 1. Information contained on the computer printout, the 75-48 or 75-48A is compared with the "dead" plate to ensure accuracy.
- 2. A weekly transmittal list is prepared, in duplicate, which lists all "dead" plates recovered by the police (see Sample Format).
  - a. Plates retained for evidentiary purposes will be placed on a 75-3 and the property receipt number will be noted on the transmittal list under the Remarks section.
  - b. The copy of this transmittal list and the NCIC/PCIC check will be maintained by the forwarding district/unit.
- 3. The "dead" plate(s) and accompanying transmittal list are appropriately packaged and addressed to:

# PennDOT "Return Tag Unit" P.O. Box 68597 Harrisburg, PA 17106-8597

- 4. The packaged "dead" plate(s) and accompanying transmittal list are delivered to Room B-6, Police Headquarters.
  - a. The delivering officer's name and badge number is noted on the district's copy of the transmittal list.

#### G. Mail Room Supervisor will ensure that:

- 1. All packages are appropriately addressed and sealed. Only correctly labeled and sealed packages will be accepted.
- 2. Correct postage is affixed to all packages and mailed as soon as possible.

#### H. Police Impound Lot Unit Supervisor will:

- 1. Remove the registration plate off any vehicle that is impounded and considered to be abandoned by the owner prior to releasing that vehicle to the Philadelphia Parking Authority for auction.
- 2. The proper form will be filled out and accompany the plates when they are packaged and returned to the address listed in Section 9-F-3 above.

### (EXAMPLE FORMAT)

#### POLICE

## **MEMORANDUM**

CITY OF PHILADELPHIA DATE:

ТО	: Pennsylvania Bureau of Motor Vehicles								
FROM	: Co	mmanding Officer,							
SUBJECT	RE	TURN OF '	<u>'DEAD" VE</u>	CHICLE RE	GISTRATION I	<u>PLATES</u>			
	1.		Please find enclosed "dead" vehicle plates, which were recovered by the Philadelphia Police Department and this accompanying transmittal list.						
	2.		Should you have any questions concerning this list or the recovered "dead" vehicle registration plates, please contact:						
		Commanding Officer, District Philadelphia, PA 191 Phone: (215)							
		Regis. #	<u>DC #</u>	Lost/ Stolen	<u>Other</u>	Date of Occurrence			
	3	1. 2. 3. 4.							
	3.	Remarks:							
	4.	Attachment	S						

82-S-1 (Rev. 3/59)

Response to this **MEMORANDUM** may be made hereon in longhand

**RELATED PROCEDURES:** Directive 3.2, Vehicle Laws of Pennsylvania (Vehicle Code Directive 3.4, Driving Under the Influence of Alcohol and/or Controlled Substances Directive 3.5, Scofflaw File Directive 4.10, **Foot Pursuits** Directive 5.7, Search Warrants Directive 5.27, **Firearms** Directive 6.3, Vehicle Registration Data Directive 6.13. Maintenance of Pennsylvania Motor Vehicle Driver's License Directive 7.1. Police Radio Directive 9.4, Vehicle Pursuits Directive 9.6, Vehicular Accidents Directive 12.5, Police Towing of Vehicles Directive 12.7, Vehicle Theft Investigations Complaint or Incident Report (75-48) Directive 12.11, Directive 12.17, Patrol Activity Log (75-158) P/C Memo 98-10, LO-JACK" Stolen Auto Recovery System

#### BY COMMAND OF THE POLICE COMMISSIONER

**PLEAC -** Conforms to the standards according to the Pennsylvania Law Enforcement Accreditation Commission

<b>FOOTNOTE</b>	<b>GENERAL</b> #	<b>DATE SENT</b>	<b>REMARKS</b>	
*1	7004	11-02-17	Change	



#### PHILADELPHIA POLICE DEPARTMENT

#### **DIRECTIVE 12.8**

#### **APPENDIX "A"**

Issued Date: 09-04-15 Effective Date: 09-04-15 Updated Date:

SUBJECT: "LIVE STOP" PROGRAM

**PLEAC 1.2.3e** 

#### 1. POLICY

- A. It shall be the policy of the Philadelphia Police Department, hereinafter referred to as the PPD, to enforce the impoundment provisions of the Pennsylvania Vehicle Code, §6309.2, known as "Live Stop" in a reasonable and equitable manner without regard to race, religion, ethnicity, disability, financial status, or sexual orientation.
- B. Furthermore, it shall also be the policy of the PPD to safeguard any occupants of vehicles so impounded. Under no circumstances shall the occupants of any vehicle impounded be abandoned on any city street or highway. Specifically, it shall be the duty of every investigating officer to insure the safety of these occupants by offering to either transport the occupants home or to another address if located within a reasonable distance, transporting the individuals to the nearest police district where the occupants can safely make alternate arrangements, or if requested, by transporting the occupants to the nearest public transportation hub. Should any occupant decline police transportation, the investigating officer will record such declination and attempt to have the occupants sign the Vehicle or Pedestrian Investigation Report (75-48A).
- C. Also, while the safety of the occupants is a paramount concern to the PPD, the occupants have the right to refuse transportation. Barring exigent circumstances, officers will never transport any individual against their will.

#### 2. LEGAL REQUIREMENTS OF §6309.2

- A. According to the Pennsylvania Vehicle Code §6309.2, any vehicle may be impounded when it is determined, during a lawful vehicle investigation that the operator is in violation of any or all of the following statutes:
  - §1301(a) -- Driving Unregistered Vehicle Prohibited.
  - §1371 -- Operation Following Suspension of Registration
  - §1501(a) -- Drivers Required to be Licensed
  - §1543(a) -- Driving While Operating Privilege is Suspended or Revoked

**NOTE**: Impoundment is in addition to any fines and penalties for the underlying offense.

- B. All vehicles being operated in violation of Pennsylvania Vehicle Code §6309.2 shall be impounded as provided in Section 3, with the following exception:
  - When a vehicle is stopped and the operator is unlicensed or operating with a
    suspended or revoked license <u>AND THE OWNER OF THE VEHICLE IS</u>
    <u>PRESENT IN THE VEHICLE</u> and otherwise legally and physically capable of
    operating the vehicle safely, the vehicle <u>SHALL NOT</u> be impounded, but rather
    RELEASED TO THE OWNER.
    - a. Prior to releasing the vehicle to the owner, in addition to any traffic citations issued to the operator, the investigating officer <u>SHALL ISSUE THE OWNER</u> a traffic citation for authorizing or knowingly permitting a motor vehicle owned by them to be driven in violation of any provisions of the Pennsylvania Vehicle Code (75 P.S. §1575(a)).

#### 3. IMPOUNDMENT PROCEDURES

- A. Once it is determined during the course of a lawful vehicle investigation that the operator is in violation of any provisions identified above, the investigating officer shall:
  - 1. Request Police Radio to confirm the status of the operator's license or lack thereof and/or the vehicle's registration.
    - **NOTE**: If the status cannot be confirmed, the vehicle shall not be impounded.
  - 2. Upon verification, Police Radio will notify the Philadelphia Parking Authority (PPA) and Philadelphia Traffic Court. A time check will be given by Police Radio upon notification.
  - 3. Inform the operator that the vehicle is being impounded by the Philadelphia Traffic Court and explain the reason why.
  - 4. Notify the operator and any occupants that they will not be left at that location and that the police department will either transport them to their residence or another address if located within a reasonable distance, to the nearest police district where the individuals can safely make alternate arrangements, or to the nearest public transportation hub, if they so desire. Occupants will also be advised that they have the right to refuse any police services.
  - 5. Prepare a Vehicle Investigation Report (75-48A) UCR Code 2808, Live Stop Towing Report and any Traffic Citations if applicable.

**NOTE:** If the operator of the vehicle is arrested at the time of the Live Stop no Traffic Citations will be issued. The procedures outline in Section 6 of this appendix will be followed.

- 6. If the operator is a scofflaw, or any other warrants exist, normal arrest procedures will be followed.
- 7. Respond to priority calls without a supervisor's authorization. Also, officers may leave the scene prior to the arrival of a tow truck if other exigent circumstances develop (i. e., other than a priority call), but only when authorized by a supervisor. In either case, if an officer does leave the scene prior to the arrival of a tow truck, Police Radio will be notified to cancel the authorized tower.

**NOTE**: If an authorized tow truck does not arrive within thirty (30) minutes, the officer will issue the citations, prepare a 75-48A with UCR Code 2807.

- B. Once a tow truck arrives on location, the investigating officer, shall, with the aid of backup:
  - 1. Have the operator and occupants exit the vehicle and remain on location until the tow truck operator has the vehicle in tow.
  - 2. Complete the inventory search by conducting a complete and thorough check of the vehicle. This check will also be conducted of the trunk area if readily accessible. If evidence or other items are recovered they will be noted on the Live Stop form in the "Police Officer Comments" section and the 75-48A. If no items are recovered the officer preparing the form will notate these results by writing "Inventory Search-Negative Results" in the "Police Officer Comments" section. (PLEAC 1.2.3 e).

**NOTE:** No locked areas, including the trunk area, will be forced open while conducting an inventory.

- 3. Personnel will also conduct a vehicle inspection. Officers will note any damage to the vehicle, missing equipment, and personal property of value left in the vehicle by the operator/occupants. If no damage is observed, officers will note "No Damage" in the "Police Officers Comments" section.
- 4. After the vehicle inspection the officer will have the tow truck operator sign the Live Stop Towing Report. The vehicle operator will sign the Live Stop Towing Report and any Traffic Citations being issued.

- **NOTE:** If during the Vehicle Inspection any damage is noticed, equipment is missing, or items are recovered for evidentiary purposes the officer will review that information with the operator prior to signing the document. If for any reason sworn personnel require a secondary inventory or check of the vehicle after it has been towed by the PPA, a Search Warrant will be necessary. This is to ensure the proper chain of custody is maintained. Refer to Directive 5.7, "Search Warrants" for procedure.
- 5. The operator will then receive the pink copy of the Live Stop Towing Report labeled (Citizen), the Tow Operator will receive the white copy (Tow Operator) and the yellow copy will be retained by the Officer and turned in to the Operation Room Supervisor (ORS).
  - **NOTE:** A note will be made both in the 75-48A and in the "Remarks" section of the Traffic Citation that the vehicle was impounded under §6309.2 (Live Stop) of the Pennsylvania Vehicle Code. Also, a full description of the operator shall be included.
  - a. As a courtesy, always advise the operator that it is necessary to bring their operator's license, registration card and proof of automobile insurance to Traffic Court when attempting to reclaim the vehicle.

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#### 4. OCCUPANT SAFEGUARDING PROCEDURES

- A. Once the vehicle has been towed, the investigating officer, along with backup, will:
  - 1. Offer to transport the driver/occupants home or to another address if located within a reasonable distance, to the nearest police district where the occupants can safely make alternate arrangements, or if requested, to the nearest public transportation hub.
    - **NOTE 1**: The driver and or any occupant have the right to refuse any police assistance. Barring exigent circumstances, officers will never transport any individual against their will.
    - **NOTE 2**: The term "reasonable distance" shall be determined by the investigating officer's supervisor based upon the totality of the circumstances.
    - **NOTE 3**: The term "transportation hub" shall mean a transportation facility whereby multiple train, bus or trolley lines converge providing access to locales citywide. It shall not include isolated or single train, bus, or trolley stops.

2. The officer will include in the "Notes" section of the Vehicle and Pedestrian Investigation Report (75-48A) the actual provisions that were made for the occupant(s). Whenever possible, have the occupants sign the 75-48A.

**NOTE**: If the occupants refuse police transportation or to sign the Vehicle or Pedestrian Investigation Report, the investigating officer will record the refusals in the "Notes" section of the report (i. e., 75-48A).

5. OPERATIONS ROOM PROCEDURES

A. The Operations Room Supervisor will:

- 1. Ensure all vehicle and pedestrian investigation reports are coded correctly in the INCT. UCR Code 2808 will be used when a "Live Stop" vehicle was towed and the UCR Code 2807 when exigent circumstances necessitated the cancellation of the vehicle being towed.
- 2. Ensure that whatever provisions were made for the occupants or any refusals are properly included in the "Notes" section of the Vehicle or Pedestrian Investigation Report.
- 3. Ensure that the Live Stop Towing Report is distributed as follows:

White CopyYellow CopyRetained in District for 5 years.

Pink Copy -- Provided to operator of impounded vehicle.

6. LIVE STOPS WITH ARRESTS PROCEDURES

A. When handing an <u>arrest along with a Live Stop</u>, whoever prepares the PARS & PIIN/75-49 reports WILL:

- 1. List ALL Motor Vehicle Code (MVC) violations, including § 1301(a), 1371, 1501(a) and 1543(a) in the <u>BODY of both reports</u> along with all other violation (e.g., 3714-Careless Driving, 1511-A-Failure to Carry License). The body of PARS & PIIN/75-49 reports will reflect the MVC violations that would have been issued if the Officer were permitted to issue the TVR(s) and the narrative to support the charges.
- 2. Compete the 75-48A as follows:
  - a. Officers <u>WILL check</u> the '<u>Vehicle involved in Violation of MVC</u>' block. In the 'TC issued block?' The officer WILL check 'NO'.

- b. In the "Reason for stop" section, the Officer will state the Vehicle Code Violation(s) and that the "citations will be handled through the DA's office operator arrested."
- c. Officers <u>WILL check</u> the '<u>Vehicle Involved in Criminal Activity</u>' block and describe the suspected crime.
- B. Normal LIVE STOPS where the operator is <u>NOT</u> arrested will be handled under the original procedure (TVR's will be issued & documented on the Live Stop Towing Report).

**NOTE:** A car stop where the operator is wanted for an <u>Existing Arrest Warrant ONLY</u> is considered two (2) separate incidents and TVR's <u>CAN</u> be issued without the risk of Double Jeopardy.

#### BY COMMAND OF THE POLICE COMMISSIONER

**PLEAC -** Conforms to the standards according to the Pennsylvania Law Enforcement Accreditation Commission